

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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TRUSTEES OF EMPIRE STATE CARPENTERS  
ANNUITY, APPRENTICESHIP, LABOR-  
MANAGEMENT COOPERATION, PENSION, and  
WELFARE FUNDS,

Plaintiff,

-against-

SYRACUSE FLOOR SYSTEMS, INC., SYRACUSE  
COMMERCIAL FLOOR, INC., and COMMERCIAL  
FLOOR SOLUTIONS,

Defendants.

**ORDER**  
**13-CV-1509 (SJF)**

**FILED**  
IN CLERK'S OFFICE  
U S DISTRICT COURT E D N Y

★ JAN 13 2015 ★

**LONG ISLAND OFFICE**

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FEUERSTEIN, District Judge.

Defendant Syracuse Floor Systems, Inc. ("SFS") has moved for an Order dismissing this case, pursuant to Federal Rule of Civil Procedure 12(b)(6), and compelling arbitration, which was referred to Magistrate Judge Arlene R. Lindsay for a Report and Recommendation ("Report"). The Report, dated December 5, 2014, recommends that SFS's motion be denied. No objections have been filed. For the following reasons, the Court adopts Magistrate Judge Lindsay's Report in its entirety.

I

Any portion of a report and recommendation on dispositive matters, to which a timely objection is made, is reviewed *de novo*. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72. The court, however, is not required to review the factual findings or legal conclusions of the magistrate judge where no proper objections are interposed. *See Thomas v. Arn*, 474 U.S. 140, 150 (1985) ("It does not appear that Congress intended to require district court review of a magistrate's

factual or legal conclusions, under a *de novo* or any other standard, when neither party objects to those findings.”). Thus, to accept the report and recommendation of a magistrate judge on a dispositive matter to which no timely objection has been made, the district judge need only be satisfied that there is no clear error on the face of the record. *See Fed. R. Civ. P. 72(b); Johnson v. Goord*, 487 F. Supp. 2d 377, 379 (S.D.N.Y. 2007); *Baptichon v. Nevada State Bank*, 304 F. Supp. 2d 451, 453 (E.D.N.Y. 2004). After conducting the appropriate review, a district court may accept, reject or modify any of the magistrate judge’s findings or recommendations whether or not objections have been filed. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b).

## II

Upon review, the Court is satisfied that the Report is not facially erroneous and therefore, the Report is adopted in its entirety. Accordingly, defendant’s motion to dismiss for failure to state a claim and compel arbitration is **DENIED**.

**SO ORDERED.**

Dated: January 13, 2014  
Central Islip, New York

s/ Sandra J. Feuerstein

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Sandra J. Feuerstein, U.S.D.J.